. Appl. No. 09/782,178
Amdt. dated May 18, 2004
Reply to Office Action of November 18, 2004

PATENT

REMARKS/ARGUMENTS

Upon entry of this amendment, which amends claims 1-5, claims 1-5 remain pending. In the Office Action, the Examiner has rejected all pending claims. Claim 1 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is rejected under 35 U.S.C. § 112 as being indefinite. Claims 1, 3 and 5 are rejected under 35 USC § 103(a) as being unpatentable over Carlson (U.S. Patent No. 6,377,959). Claims 2 and 4 are rejected under 35 USC § 103(a) as being unpatentable over Carlson and further in view of Dettinger, et al. (U.S. Patent No. 6,199,069). Applicant requests reconsideration of the claims in view of the amendments above and remarks below.

Claim 1 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In response, applicants have amended claims 1-5 to read a "database system".

Claim 1 is rejected under 35 U.S.C. § 112 as being indefinite because the use of the adjective "substantive" renders the "copies" indefinite. Applicants believe that the claim is not indefinite; however, have amended the claim to expedite prosecution. As amended, claim 1 reads " a second database, wherein the first database and second database include substantially similar copies of each other outside of an update period." Applicant requests withdrawal of the rejection.

Claims 1 is rejected under 35 USC § 103(a) as being unpatentable over Carlson. Carlson discloses two duplicate databases. All incoming updates are sent to both the active and redundant databases. *See Carlson*, abstract. When a database fails, the other database is reassigned active status. The failed database is then flushed of data and reconstructed using information in the active database. *See Carlson*, col. 4, lines 38-43. The reconstruction is performed while incoming transactions are interleaved into the operation stream. *See Carlson*, col. 4, lines 37-39. In some cases, the incoming updates are sent to both the active and redundant databases. *See Carlson*, col. 5, lines 10-15. Also, some update operations are ignored for the redundant database and sent to the active database. *See Carlson*, col. 5, lines 15-23.

Applicants submit that Carlson does not disclose or suggest every element of claim 1, as amended. For example, Carlson fails to disclose or suggest "wherein an update is performed on the load database <u>before</u> the update is performed on the live database." Rather, Carlson teaches that incoming updates are sent to both the active and redundant databases. This is the process when a database has not failed.

When a database fails in Carlson, a backup process is initiated. The database other than the failed database is considered active. If the failed database is considered the load database (it is not), Carlson still does not disclose or suggest "wherein an update is performed on the load database <u>before</u> the update is performed on the live database." The failed database is flushed and updated with data from the active database. Assuming arguendo that this is an update of the redundant database, the update is not being performed before the update to the active database. Also, if an update is received during the reconstruction process, the update is sent to both the active and failed databases or not sent to the failed database at all. *See Carlson*, col. 5, lines 10-22. Accordingly, Carlson does not disclose or suggest performing an update on the failed database <u>before</u> the update is performed on the active database.

Moreover, Carlson teaches that incoming updates are sent to both the active and redundant databases. Thus, Carlson teaches against performing an update on a load database before the update is performed on the live database and it would have been obvious to modify Carlson to perform updates on a failed database before the updates are performed on the active database.

Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1. Claims 2-5 depend from claim 1 and thus derive patentability at least therefrom.
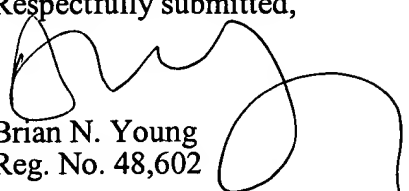
CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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